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Attorneys for Plaintiffs
Tetris Holding, LLC and The Tetris Company, LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

TETRIS HOLDING, LLC and THE
TETRIS COMPANY, LLC,

Plaintiffs,

- against -

XIO INTERACTIVE INC.,

Defendant.

Case No. 3:09-cv-6115 (FLW)
(DEA)

Hon. Freda L. Wolfson, U.S.D.J.
Hon. Douglas E. Arpert, U.S.M.J.

**NOTICE OF PLAINTIFFS'
MOTION FOR SUMMARY
JUDGMENT**

Document Filed Electronically

TO: All Counsel on CM/ECF Service List

PLEASE TAKE NOTICE that, on December 5, 2011, at 10:00 a.m. or as soon thereafter as counsel may be heard, the undersigned, attorneys for plaintiffs Tetris Holding, LLC and The Tetris Company, LLC (collectively, “TH”) shall move before the Honorable Freda L. Wolfson, U.S.D.J., at the United States District Court, Clarkson S. Fisher Federal Bldg. & U.S. Courthouse, 402 E. State Street, Trenton, NJ 08608, pursuant to Federal Rule of Civil Procedure 56, for entry of an Order granting summary judgment

(1) in favor of TH on its claims against defendant Xio Interactive Inc. (“Xio”) for

(a) copyright infringement, 17 U.S.C. §§ 101 *et seq.* (Count 1),

(b) false designation of origin, false endorsement, and unfair competition under the Lanham Act, 15 U.S.C. § 1125(a)(1)(A) (Count 2),

(c) trade dress infringement and unfair competition in violation of the New Jersey Fair Trade Act (Count 3), and

(d) common law unfair competition (Count 4), and

(2) dismissing Xio’s affirmative defenses of fair use, preemption and functionality.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, TH shall rely upon the following documents: (1) Memorandum of Law in Support of Plaintiffs' Motion for Summary Judgment; (2) Plaintiffs' Statement of Material Facts Not in Dispute; and (3) the Declarations of Henk Rogers, Johanna Schmitt, Esq., Dr. Ian Bogost, Dr. Gerald L. Ford, Dr. Myron Helfgott and Dr. E. Deborah Jay in Support of Plaintiffs' Motion for Summary Judgment and the exhibits thereto. A proposed form of Order is submitted herewith;

PLEASE TAKE FURTHER NOTICE that, in accordance with the briefing schedule established by the Court [Dkt. Entry # 43], opposition papers to this motion shall be filed and served no later than October 25, 2011, reply papers in support of this motion shall be filed and served no later than November 18, 2011, and Local Civil Rule 7.1(d)(5) shall not apply to alter any of the foregoing dates.

Date: September 30, 2011

Respectfully submitted,

/s/ Dale M. Cendali

Dale M. Cendali

Johanna Schmitt

Brendan T. Kehoe

KIRKLAND & ELLIS LLP

/s/ Robert J. Schoenberg

Robert J. Schoenberg
RIKER DANZIG SCHERER
HYLAND & PERRETTI LLP

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing Notice of Motion for Summary Judgment, Memorandum of Law in Support of Motion for Summary Judgment, Statement of Material Facts Not in Dispute, Declarations of Henk Rogers, Johanna Schmitt, Esq., Dr. Ian Bogost, Dr. Gerald L. Ford, Dr. Myron Helfgott and Dr. E. Deborah Jay and the exhibits thereto, and a proposed form of Order were electronically filed with the Court and automatically served upon counsel of record via the CM/ECF system.

Date: September 30, 2011

Respectfully submitted,

/s/ Dale M. Cendali

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Johanna Schmitt
Brendan T. Kehoe
KIRKLAND & ELLIS LLP

/s/ Robert J. Schoenberg

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Attorneys for Plaintiffs